

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4093 of 2007()

: PETITIONER/ACCUSED

MINI, AGED 26 YEARS, W/O. SHAIJU,
CHAMAKKALA HOUSE, MURINGOOR, KORATTY,
CHALAKUDY.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV. SRI. P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
= = = = =
B.A.No. 4093 Of 2007
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Dated this the 6th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegation under Section 326 IPC. It is alleged that the petitioner, the daughter in law had hit the victim, her mother in law with a stick causing fracture on the skull bone. The alleged incident took place on 29.4.07. Crime was registered promptly. Investigation is in progress. Petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The mother in law had fainted and fallen down and had suffered injury, she submits. She relies on certain entries in the wound certificate in support of her contention. It is prayed that directions under Section 438 Cr.P.C may in these circumstances be issued in favour of the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor points out that it is the husband of the petitioner who had lodged the F.I.statement, in which it is stated that his mother had fallen unconscious. She was admitted in the IC.U. It is only after she became conscious, the alleged incident was narrated to him by his mother. There is absolutely no circumstances justifying

invocation of the extraordinary equitable discretion under Section 438, submits the learned Public Prosecutor.

4.The case diary has been placed for my perusal. I have gone through the same. I shall scrupulously avoid any such expression of opinion on merits about the acceptability and credibility of the data collected. Suffice it to say that, I am not persuaded to agree that there are circumstances justifying invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and seek regular bail in the normal and ordinary course.I have no reason to assume that the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously. Every court must do the same.

6. The petitioner/ accused of course has the right to claim the compassion of law in favour of her under Section 437 Cr.P.C.

7. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE

